

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

FILED

NOV - 2 2012

WILLIAM B. GUTHRIE
Clerk, U.S. District Court
By Deputy Clerk

(1) GERALD BURCH, an individual,

Plaintiff,

v.

Case No. **CIV 12 - 452 - FHS**

(1) METROPOLITAN PROPERTY AND
CASUALTY INSURANCE COMPANY,
a foreign corporation

Defendant.

NOTICE OF REMOVAL

COMES NOW the Defendant Metropolitan Property and Casualty Insurance Company, and pursuant to 28 U.S.C. § 1446 and Fed. R. Civ. P. 81(c) states:

1. The above entitled suit was filed in the District Court of Wagoner County, State of Oklahoma as Case No. CJ-2012-475 on October 4, 2012. Defendant Metropolitan Property and Casualty Insurance Company was served through the office of the Oklahoma Insurance Commissioner on October 11, 2012. Receipt of service was the first notice Metropolitan Property and Casualty Insurance Company received of this suit. In accordance with 28 U.S.C. §1446(a) and LCvR 81.2, a copy of the docket sheet and a copy of all documents filed or served in the Wagoner County case are attached to this Notice as Exhibit "1" through "4".

2. Plaintiff Gerald Burch is a citizen and resident of Oklahoma.

3. Defendant Metropolitan Property and Casualty Insurance Company is licensed

to do business in the State of Oklahoma, incorporated in the State of Rhode Island and its principal place of business is in Rhode Island; therefore, Metropolitan Property and Casualty Insurance Company is deemed to be a Rhode Island citizen for purposes of diversity.

4. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. § 1332. Removal is proper pursuant to 28 U.S.C. §1441, et seq.

5. In this case, Plaintiff brings causes of action for breach of an insurance contract and bad faith against Metropolitan Property and Casualty Insurance Company, arising from a motor vehicle accident.

6. The Petition alleges that Plaintiff seeks damages “in an amount in excess of \$75,000.00 in actual damages.” Thus, the amount in controversy exceeds the amount which is required for diversity jurisdiction.

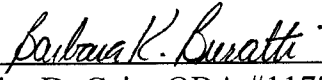
7. Pursuant to 28 U.S.C. § 1332(a)(1), this Court has jurisdiction because of the complete diversity of citizenship of the parties and there is a sufficient amount in controversy.

8. Pursuant to 28 U.S.C. § 1446(a), Defendant acknowledges that this Notice of Removal is signed and filed pursuant to Rule 11 of the Federal Rules of Civil Procedure.

WHEREFORE, Defendant, Metropolitan Property and Casualty Insurance Company requests this Notice of Removal be accepted by this Court and that the lawsuit proceed as an action properly removed to this Court’s jurisdiction.

Respectfully submitted,

WILSON, CAIN & ACQUAVIVA
300 Northwest 13th Street, Suite 100
Oklahoma City, Oklahoma 73103
405/236-2600; FAX 405/236-2607



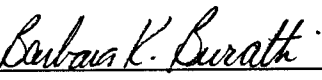
Tim D. Cain, OBA #11779
Barbara K. Buratti, OBA #12231
Attorneys for Defendant
Metropolitan Property and Casualty Insurance
Company

CERTIFICATE OF SERVICE

___ I hereby certify that on November 1, 2012, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

X I hereby certify that on November 1, 2012, I served the attached document by Certified, Return Receipt Requested on the following, who are not registered participants of the ECF System:

Adam Scott Weintraub, OBA #13209
Terry S. O'Donnell, OBA #13110
Joshua A. Cline, OBA #30047
Savage, O'Donnell, Affeldt, Weintraub & Johnson
110 West 7th, Suite 1010
Tulsa, OK 74119
Telephone: 918-582-0582
Facsimile: 918-587-8925
Attorneys for Plaintiff



Barbara K. Buratti